

FINANCE CODE

TITLE 3. FINANCIAL INSTITUTIONS AND BUSINESSES

SUBTITLE D. CREDIT UNIONS

CHAPTER 122. ORGANIZATIONAL AND FINANCIAL REQUIREMENTS

SUBCHAPTER A. INCORPORATION REQUIREMENTS

The following section was amended by the 87th Legislature. Pending publication of the current statutes, see S.B. [707](#), 87th Legislature, Regular Session, for amendments affecting the following section.

Sec. 122.001. APPLICATION TO INCORPORATE. (a) Seven or more individuals may apply to incorporate a credit union under this chapter if:

- (1) each is at least 18 years old;
- (2) a majority are residents of this state;
- (3) each has subscribed for at least 10 shares; and
- (4) all share the definable community of interest

stated in the articles of incorporation.

(b) The incorporators shall file with the commissioner:

- (1) an application in a form prescribed by the commission; and
- (2) filing fees required and set by the commission.

(c) The application must contain:

(1) two copies of the articles of incorporation, which must state:

- (A) the name of the credit union;
- (B) the municipality and county where the credit union's principal place of business is to be located;
- (C) that the credit union's term of existence is perpetual;
- (D) that the credit union's fiscal year is the calendar year;
- (E) the initial share accounts;
- (F) the name and address of, and the number of shares subscribed by, each incorporator;
- (G) the number of directors constituting the

initial board and the name and address of each person who will serve as director until the first annual meeting or until a successor is elected and qualified; and

(H) the definable community of interest shared by the members of the credit union at the time of incorporation;

(2) two copies of the standard bylaws for the general operation of the credit union; and

(3) a business plan covering three years and providing a detailed explanation of actions intended to accomplish the primary functions of the credit union.

(d) The articles of incorporation must be signed and sworn to.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 8, eff. Sept. 1, 2003.

Sec. 122.002. STANDARD ARTICLES OF INCORPORATION AND BYLAWS. (a) To simplify the process of organizing new credit unions, the commission shall prepare standard articles of incorporation and bylaws.

(b) The standard forms shall be made available without charge to a person desiring to organize a credit union.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 122.003. CORPORATE NAME; CRIMINAL PENALTY. (a) The name of a credit union must include the words "credit union" or the abbreviation "CU" and an appropriate descriptive word or words, or an acronym made up of initials of the appropriate descriptive word or words and ending in "CU," approved by the commissioner.

(b) Unless a credit union is formed by merger or consolidation, the commissioner may not issue a certificate of incorporation to the credit union or approve the change of the name of the credit union if it would have the same name as another credit union or a name so nearly resembling the name of another credit union as to be calculated to deceive.

(c) A person who is not a credit union authorized to do business in this state under this subtitle or the Federal Credit Union Act (12 U.S.C. Section 1751 et seq.), or an organization,

corporation, or association the membership or ownership of which is primarily confined to credit unions or credit union organizations, may not do business under or use a name or title containing the words "credit union" or any derivation of that term that:

(1) indicates or reasonably implies that the person carries on or transacts the kind of business carried on or transacted by a credit union; or

(2) is calculated to lead a person to believe that the business being conducted is the type of business carried on or transacted by a credit union.

(d) A person who violates Subsection (c) commits a Class A misdemeanor.

(e) The commissioner may petition a court to enjoin a violation of this section.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 157, Sec. 6, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 533, Sec. 9, eff. Sept. 1, 2003.

Sec. 122.004. INVESTIGATION BY COMMISSIONER. The commissioner may conduct an investigation and obtain any information or report from any person, including a law enforcement agency, that the commissioner considers necessary.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 122.005. PROCEDURE FOR CERTAIN APPROVALS. (a) This section applies to a request for approval by the commissioner of:

(1) an application for incorporation under this subchapter;

(2) a request for approval of an amendment to a credit union's articles of incorporation under Section [122.011](#), including an amendment to expand the credit union's field of membership; and

(3) a merger or consolidation under Subchapter D.

(b) Before approving a request to which this section applies, the commissioner shall submit notice of the request to the secretary of state for publication in the Texas Register. The commission by rule shall provide for other appropriate public notice of the request. The commissioner may waive the requirements

of this subsection or permit delayed public notice on a determination that waiver or delay is in the public interest. If the requirements of this subsection are waived, the information that would be contained in a public notice becomes public information under Chapter 552, Government Code, on the 35th day after the date the request is made.

(c) Before making a determination on a request to which this section applies, the commissioner must accept comment from any interested party that wishes to comment. This comment may be in the form of written testimony or may be provided at a meeting with the commissioner held for the purpose of receiving the comment. This meeting shall be held if requested by any interested party. The commissioner may hold the meeting regardless of whether an interested party requests the meeting. The commission may establish reasonable rules governing the circumstances and conduct of the meeting. Chapter 2001, Government Code, does not apply to the meeting. Not later than the 60th day after the date the notice is published in the Texas Register, or if the notice is not published, after the date the request is received, the commissioner shall approve or disapprove the application.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.01(a), eff. Sept. 1, 1999.

Sec. 122.006. DECISION ON APPLICATION TO INCORPORATE; ISSUANCE OF CERTIFICATE. (a) The commissioner shall approve an application to incorporate a credit union if the commissioner determines:

(1) that the incorporators have complied with this chapter and rules adopted under this chapter; and

(2) from information furnished with the application, the results of any investigation, the evidence submitted at any hearing, and information in the department's official records, that:

(A) the character and general fitness of the incorporators and the members of the initial board warrant belief that the credit union's business and affairs will be properly administered in accordance with this subtitle and rules adopted

under this subtitle;

(B) the character and size of the field of membership to be served by the credit union conform with this subtitle and rules adopted under this subtitle and favor the credit union's economic viability; and

(C) the incorporators and the members of the initial board are acting in good faith and are making the application in accordance with the purposes of this subtitle.

(b) In addition to the determinations made under Subsection (a) and in accordance with commission rules, the commissioner shall consider the effect of overlapping fields of membership on the applicant credit union and existing state or federal credit unions doing business in this state. The commissioner may consider the availability and adequacy of financial services in the local community and the effect that the incorporation of the credit union would have on the local community. As a condition of approval of the application, the commissioner may require the applicant credit union to limit or eliminate overlaps, in accordance with the rules, to achieve the purposes of this subtitle and promote the welfare and stability of those credit unions.

(c) The commissioner by written order shall state the determinations required by Subsection (a) and approve or deny the application. The commissioner may make approval of an application conditional and shall include any conditions in the order approving the application.

(d) An order of the commissioner or commission shall be promptly mailed to the incorporators by registered or certified mail.

(e) After the commissioner in the absence of an appeal or the commission after the conclusion of an appeal approves the application, the commissioner shall:

(1) issue a certificate of incorporation;

(2) deliver copies of the approved articles of incorporation and bylaws to the incorporators; and

(3) retain copies of those documents in the department's permanent files.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended

by Acts 1999, 76th Leg., ch. 62, Sec. 7.01(b), eff. Sept. 1, 1999;
Acts 2003, 78th Leg., ch. 533, Sec. 10, eff. Sept. 1, 2003.

Sec. 122.007. APPEAL TO COMMISSION. (a) The commission by rule shall provide for appeal of the commissioner's order by an incorporator or other aggrieved person.

(b) The commissioner's order may be appealed to the commission not later than the 60th day after the date of the order.

(c) After reviewing information or evidence the commission considers necessary or relevant, the commission by written order shall affirm or reverse the commissioner's decision.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 122.008. EFFECT OF ISSUANCE OF CERTIFICATE OF INCORPORATION. (a) A credit union's existence begins when the commissioner issues the certificate of incorporation.

(b) The certificate of incorporation is conclusive evidence that the incorporators have complied with this subtitle and that the credit union is incorporated under this chapter.

(c) Acceptance of a certificate of incorporation by the credit union is conclusive evidence that the credit union is authorized to do business under this subtitle.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 19 (S.B. [244](#)), Sec. 4, eff. September 1, 2013.

Sec. 122.009. REQUIREMENTS FOR COMMENCING BUSINESS. (a) A credit union may not transact business or incur debt that is not incidental to its organization or to obtaining a subscription to or payment for its shares or deposits before it:

(1) has received paid-in shares or deposits of at least \$1,000;

(2) has at least 100 members;

(3) has fulfilled all agreements and conditions related to approval of an application for incorporation and issuance of a certificate of incorporation; and

(4) has notified the department of its compliance with Subdivisions (1)-(3).

(b) The commission may adopt reasonable rules to:

(1) require greater minimum membership and paid-in shares or deposits; or

(2) prescribe additional requirements a credit union must meet before transacting business or incurring indebtedness.

(c) The commissioner may waive a requirement of this section or of a rule adopted under this section if the commissioner finds that the credit union:

(1) does not have supervisory problems that adversely affect its ability to operate properly; and

(2) is adequately capitalized.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 122.010. DEADLINE FOR COMMENCING BUSINESS. (a) A credit union shall begin business before six months after the date of the order approving the credit union's application.

(b) On request and for good cause shown, the commissioner may grant a credit union that has not begun business within the time prescribed by Subsection (a) a reasonable extension to provide an opportunity to overcome the cause of the delay.

(c) The incorporators may appeal to the commission, in accordance with commission rules, a commissioner's decision refusing a request for an extension.

(d) The commissioner may cancel the certificate of incorporation in accordance with commission rules if a credit union does not begin business within the prescribed time.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 122.011. AMENDMENT OF ARTICLES OF INCORPORATION OR BYLAWS. (a) The board may amend the articles of incorporation or bylaws by a two-thirds vote of the directors present at a meeting at which a quorum is present. The board shall submit amendments to the commissioner.

(b) Unless the amendment is a standard bylaw adopted by the commission, the commissioner in writing shall approve or disapprove

an amendment.

(c) In approving an amendment, the commissioner shall make the findings and may take the actions provided by Sections 122.006(a) and (b). The commissioner may not approve an amendment if the commissioner finds that it violates this subtitle or rules adopted under this subtitle. The commissioner shall state with reasonable specificity the reasons for disapproval. An amendment takes effect on the commissioner's approval.

(d) The board shall report an amendment to the credit union's membership not later than the next membership meeting after the commissioner approves the amendment.

(e) The commission shall adopt rules for an appeal of the commissioner's decision on an amendment. The commissioner's order approving or disapproving an amendment may be appealed to the commission not later than the 60th day after the date of the order. Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 62, Sec. 7.02(a), eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 533, Sec. 11, eff. Sept. 1, 2003.

Sec. 122.012. PLACE OF BUSINESS. (a) A credit union shall maintain on file with the department a statement specifying the street and post office address of the credit union's principal place of business.

(b) A credit union shall provide the commissioner with written notice not later than the 30th day before the date that the credit union establishes additional offices or service facilities. A new office or service facility must be reasonably necessary to provide services to the credit union's members. The credit union shall additionally notify the commissioner in writing not later than the 10th business day after the date that the new office or service facility begins operating. For purposes of this subsection, an unmanned teller machine is not considered a service facility.

(c) The commission by rule may prescribe what constitutes an office or service facility.

(d) In accordance with rules adopted by the commission and after notifying the commissioner in writing, a credit union may

close any office or service facility, provided that the credit union designates and maintains an office as its principal place of business in this state.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 157, Sec. 7, eff. Sept. 1, 1999.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 19 (S.B. [244](#)), Sec. 5, eff. September 1, 2013.

Sec. 122.013. FOREIGN CREDIT UNIONS. (a) A foreign credit union may do business in this state if it is organized in a state or country that allows any credit union organized under this subtitle to do business in that state or country.

(b) A foreign credit union doing business in this state is subject to rules adopted under this subtitle and any additional commission requirement.

(c) The commissioner may suspend or revoke a foreign credit union's authority to do business in this state if the commissioner finds that the foreign credit union:

(1) has failed to conduct its business in this state in a manner consistent with the laws of this state;

(2) is in an unsafe or unsound condition;

(3) refuses to comply with an order of the commissioner;

(4) refuses to comply with a request by the commissioner to review the books and records of the credit union; or

(5) has not met or does not meet a requirement imposed by commission rules.

(d) The commission may require a foreign credit union operating in this state to submit periodic reports. The required reports shall be provided by the foreign credit union or by the credit union supervisory agency having primary responsibility for that credit union. Any reporting requirements prescribed by the commission under this subsection must be consistent with the reporting requirements applicable to credit unions and appropriate for the purpose of enabling the commissioner to regulate credit unions.

(e) A foreign credit union from a jurisdiction that allows a credit union to exercise additional powers and authorities not granted in this state may not exercise any of those powers or authorities in this state until the foreign credit union requests and obtains permission from the commissioner to exercise those powers or authorities. If the commissioner determines that there are no safety and soundness concerns, the commissioner shall approve the request and shall publish the powers or authorities granted in the manner authorized by Section [15.4041](#) or [15.4042](#) for the issuance of an interpretive statement or an opinion. When approved, those powers or authorities shall be available to all credit unions authorized to engage in business under this subtitle.

(f) A foreign credit union may not use this section to alter or negate the application to the credit union of any law of this state regarding:

- (1) permissible interest rates;
- (2) loan fees; or
- (3) licensing or regulatory requirements that relate to insurance, securities, marketing or sales activities, or real estate development and that are administered by an agency of this state.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 157, Sec. 8, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 533, Sec. 12, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 19 (S.B. [244](#)), Sec. 6, eff. September 1, 2013.

Sec. 122.0131. TEMPORARY FOREIGN CREDIT UNION OFFICE. If a state contiguous to this state experiences an emergency, on a request by that state's credit union regulatory agency, the commissioner may authorize one or more credit unions located in that state to open temporary offices in this state to more promptly restore credit union services to their members. The commissioner shall issue an order permitting the temporary office and specifying the period the office may remain open. On a finding that the conditions requiring the temporary office continue to exist, the

commissioner may extend the period the office may remain open. A credit union may convert a temporary office authorized under this section to a permanent location and operate as a foreign credit union if it qualifies to do business in this state as a foreign credit union under Section [122.013](#) and commission rules.

Added by Acts 2013, 83rd Leg., R.S., Ch. 19 (S.B. [244](#)), Sec. 7, eff. September 1, 2013.

Sec. 122.014. UNDERSERVED-AREA CREDIT UNION. (a) In this section, "secondary capital account" means a nontransactional account in an amount greater than \$100,000 as established by the commission that is:

- (1) owned by a person other than an individual; and
- (2) subordinated to other creditors.

(b) A credit union may apply to the commissioner for the designation of the credit union as an underserved-area credit union.

(c) The commissioner may designate a credit union as an underserved-area credit union only if:

(1) at least 50 percent of a substantial and well-defined segment of the credit union's members or potential members who are at least 15 years of age earn not more than 80 percent of the state or national household median income, whichever is higher;

(2) the credit union submits an acceptable written strategic plan for marketing to and serving the segment described by Subdivision (1); and

(3) the credit union submits other information and satisfies other criteria as may reasonably be required by the commissioner.

(d) In addition to the powers and authorities granted to credit unions under this subtitle or otherwise, an underserved-area credit union may:

(1) issue secondary capital accounts to members or nonmembers of the credit union on the filing of an application with and the advance approval of the commissioner; and

- (2) accept shares and deposits from nonmembers.

(e) The commission may adopt rules for the organization and operation of underserved-area credit unions, including rules requiring disclosures to purchasers of secondary capital accounts and other rules concerning those accounts.

Added by Acts 2003, 78th Leg., ch. 533, Sec. 13, eff. Sept. 1, 2003.

SUBCHAPTER B. ADMINISTRATION

Sec. 122.051. MEMBERSHIP. (a) A person may be a member of a credit union only if the person is an incorporator or other person who:

(1) shares a definable community of interest, in accordance with the credit union's articles of incorporation or bylaws, including a community of interest based on occupation, association, or residence;

(2) has paid an entrance fee or membership fee, or both, as required by the bylaws;

(3) has complied with the minimum share, including membership share, requirements or other qualifying account requirements established by the board; and

(4) has complied with any other requirement of the articles of incorporation and bylaws.

(b) The state acting through the comptroller as administrator of the state's deferred compensation program or a political subdivision acting through an appropriate officer as administrator of the political subdivision's deferred compensation program may be a member of a credit union for purposes of funding a deferred compensation program. The state or a political subdivision funding a deferred compensation program is not required to pay an entrance fee.

(c) A member who leaves the field of membership may retain membership in the credit union under reasonable board standards.

(d) In this subsection, "good cause" includes the act of physically or verbally abusing a credit union member or employee. A person's membership in a credit union may be terminated or suspended for good cause or for not maintaining membership requirements, under the conditions and in accordance with the

procedures provided in the bylaws. A credit union may also discontinue providing any or all services to a member for good cause without terminating or suspending the person's membership. Termination or suspension of a person's membership in the credit union or discontinuing services does not relieve the person from any outstanding obligations owed to the credit union.

(e) Two or more persons within the credit union's field of membership who have jointly subscribed for one or more share or deposit accounts under a joint account and who have complied with all membership requirements may each be admitted to membership.

(f) A credit union authorized to engage in business under this subtitle may accept as a member any other credit union organized or chartered under the laws of this or another state or of the United States. Those credit union members are not entitled to any voting privileges.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 14, eff. Sept. 1, 2003.

Sec. 122.052. MEETINGS OF MEMBERS; VOTING. (a) Members of a credit union shall hold an annual or special meeting at the time and place and in the manner provided by the bylaws.

(b) In determining a question requiring action by the members, each member may cast only one vote, regardless of the number of shares the member holds.

(c) The board may authorize voting by mail or by electronic means. Mail and electronic balloting shall be conducted in accordance with commission rules.

(d) A member that is not an organization may not vote by proxy. A member that is an organization may be represented by and vote through a designated representative who is authorized, in writing, by the organization's governing body to represent the organization.

(e) The credit union's bylaws may establish a minimum age requirement to vote.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 15, eff. Sept. 1, 2003.

Sec. 122.053. BOARD OF DIRECTORS; TERMS AND DUTIES. (a) A board of at least five members shall direct the business and affairs of a credit union.

(b) The membership of the credit union shall elect the board at an annual membership meeting, from the membership, and in the manner provided by the bylaws. A board member shall hold office until a successor is qualified and elected or appointed.

(c) A director shall take and subscribe to an oath or affirmation that the director:

(1) will diligently and honestly perform the director's duties in administering the credit union's affairs;

(2) although the director may delegate the performance of those duties, remains responsible for the performance of the duties;

(3) will not knowingly violate or willingly permit the violation of an applicable law; and

(4) will exercise the care and diligence reasonable and necessary to administer the affairs of the credit union in a safe and sound manner.

(d) The bylaws shall prescribe the directors' terms and the board's duties. A term may not exceed three years. A director may serve more than one term.

(e) The board shall meet at least once each month.

(f) A director may not vote by proxy. A director may participate in and act at any meeting of the board by means of electronic communications equipment through which all persons participating in the meeting can communicate with each other. Participation in a meeting in the manner authorized by this subsection constitutes attendance at a meeting.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 16, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 19 (S.B. [244](#)), Sec. 8, eff. September 1, 2013.

Sec. 122.054. QUALIFICATION OF DIRECTORS. (a) The commission by rule shall establish qualifications for a director.

The rules must provide that a person may not serve as director if the person:

(1) has been convicted of a criminal offense involving dishonesty or breach of trust;

(2) is not eligible for coverage under the blanket bond required by Section [122.063](#) and rules adopted under this subtitle; or

(3) has defaulted on payment of a voluntary obligation to the credit union or has otherwise caused the credit union to incur a financial loss.

(b) The president or an employee of a credit union may not serve as director of the credit union unless permitted by the credit union's bylaws. If the bylaws permit the president or an employee to serve on the board, the bylaws must require that persons serve on the board so that the president and employees of the credit union never constitute a majority of the board.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 17, eff. Sept. 1, 2003.

Sec. 122.055. VACANCIES; REMOVAL. (a) The office of a director becomes vacant if the director dies, resigns, is removed, has been absent from more meetings than the total number of absences permitted by commission rule, or does not possess or maintain the qualifications required to serve on the board.

(b) Unless the bylaws provide otherwise, the remaining directors by majority vote shall fill a vacancy, regardless of whether the remaining directors constitute a quorum. A director elected by the board to fill a vacancy holds office until the next annual membership meeting, at which the position shall be filled for the remainder of the unexpired term by vote of the members.

(c) A director may be removed from office according to the removal procedure provided by the bylaws.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 18, eff. Sept. 1, 2003.

Sec. 122.056. HONORARY OR ADVISORY DIRECTORS. (a) The board may appoint not more than six individuals to serve at the

board's pleasure as honorary or advisory directors to advise and consult with the board and otherwise aid the board in carrying out the board's duties and responsibilities.

(b) An honorary or advisory director:

(1) need not be eligible for membership in the credit union;

(2) is not a member of the board; and

(3) is not entitled to vote on a matter before the board.

(c) An honorary or advisory director may participate in any board deliberation. Except as otherwise provided by Section [125.402\(d\)](#), an honorary or advisory director shall hold in confidence all information the director receives about a credit union during the director's service.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 19 (S.B. [244](#)), Sec. 9, eff. September 1, 2013.

Sec. 122.057. OFFICERS; EXECUTIVE COMMITTEE. (a) At the annual organizational meeting, the board shall elect from its membership a chairman, vice chairman, treasurer, and secretary. The offices of treasurer and secretary may be held by the same individual.

(b) An officer elected under Subsection (a):

(1) serves a one-year term or until the officer's successor is elected and qualified; and

(2) has the duties the bylaws prescribe.

(c) The board may appoint from its membership an executive committee of at least three persons to exercise, between board meetings, authority specifically delegated by the board under conditions specified by the board. At each board meeting, the executive committee shall report to the board regarding any meeting held or action taken by the committee between board meetings.

(d) The bylaws may establish a minimum age requirement to hold office in the credit union.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended

by Acts 2003, 78th Leg., ch. 533, Sec. 19, eff. Sept. 1, 2003.

Sec. 122.058. CHIEF EXECUTIVE OFFICER. (a) The board may employ, elect, or appoint a president, who is the chief executive officer in charge of operations.

(b) The president may be a board member but may not be chairman, vice chairman, or secretary of the credit union. The president serves at the board's pleasure.

(c) Subject to board guidelines, the president shall appoint or employ, and may discharge, any other officer or employee the president considers necessary to operate the credit union. The president shall prescribe the title of an officer or employee appointed or employed under this subsection.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 122.059. DELEGATION OF MANAGEMENT AND LOAN APPROVAL AUTHORITY. (a) Without written approval of the commissioner, a credit union may not:

(1) contract with an individual who is not an officer, director, or employee of the credit union or with an organization for the provision of the management of the credit union; or

(2) delegate to an individual who is not an officer, director, or employee of the credit union or to an organization the authority to manage the credit union.

(b) The board may delegate all or part of its power to approve or disapprove a loan to a credit committee, one or more other committees, or one or more individuals.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 20, eff. Sept. 1, 2003.

Sec. 122.060. CERTIFICATE OF ELECTION.

(a) A credit union shall submit to the commissioner, in a form approved by the department, a certificate of election that provides the name and address of each officer, director, and committee member elected or appointed. The certificate must be filed within the time prescribed by the commissioner.

(b) The commission by rule may authorize the commissioner to

obtain other confidential reports relating to a newly elected or appointed officer, director, or committee member.

(c) The commissioner may accept a form prescribed by an insuring organization that contains substantially similar information as the certificate of election in lieu of the certificate. The acceptance of such a form does not limit the commissioner's power to require additional information concerning a newly elected or appointed officer, director, or committee member.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 21, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 19 (S.B. [244](#)), Sec. 10, eff. September 1, 2013.

Sec. 122.061. CONFLICTS OF INTEREST. (a) While serving as a director, honorary director, advisory director, committee member, officer, or employee of a credit union, a person may not:

(1) participate, directly or indirectly, in the deliberation on or determination of a question affecting the person's pecuniary interest or the pecuniary interest of a member of the person's immediate family or of a partnership, association, or corporation, other than the credit union, in which the person is directly or indirectly interested; or

(2) become employed by, engage in, or own an interest in a business or professional activity that the person could reasonably expect to:

(A) require or induce the person to disclose confidential information acquired because of the person's office or employment in the credit union; or

(B) impair the person's independence or judgment in the performance of the person's duties or responsibilities to the credit union.

(b) An interest only as a member of the credit union that is shared in common with all other members is not a pecuniary interest within the meaning of Subsection (a)(1).

(c) In this section, "member of a person's immediate family"

means a person's spouse or another person living in the person's household.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 19 (S.B. [244](#)), Sec. 11, eff. September 1, 2013.

Sec. 122.062. COMPENSATION. A person may not receive compensation for serving as a director, honorary director, advisory director, or committee member of a credit union, except that the person may be:

- (1) provided with reasonable health, life, accident, liability, or similar insurance protection;
- (2) reimbursed for necessary expenses incurred in the performance of the person's duties; and
- (3) paid the fees and reimbursed for other expenditures authorized by commission rules.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 122.063. BOND. The board shall purchase from a surety company authorized to do business in this state a blanket surety or security bond covering each director, honorary director, advisory director, officer, employee, member of an official committee, attorney, or other agent of the credit union as required by commission rule.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 122.064. INDEMNIFICATION. A credit union may elect to indemnify a director, officer, employee, or agent of the credit union and to purchase insurance as if the credit union were an "enterprise" as defined by Section [8.001](#), Business Organizations Code, under and subject to the credit union's bylaws and written policy. A credit union may not provide any indemnification or insurance that would not be permissible under Chapter [8](#), Business Organizations Code, but may elect to impose the credit union's own limitations on indemnification.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 19 (S.B. 244), Sec. 12, eff. September 1, 2013.

SUBCHAPTER C. OPERATIONS AND FINANCES

Sec. 122.101. CALL REPORTS. (a) A credit union shall prepare a quarterly call report, in a manner approved by the department, that states the credit union's financial condition. The commissioner may require a credit union to file additional financial reports.

(b) The credit union must submit the call report on or before the due date prescribed by the department. If a credit union does not submit a report by the due date, the commissioner shall charge a late fee in an amount set by the commission for each day the report remains unfiled. The commissioner for good cause shown may waive all or part of the late fee.

(c) A credit union that does not file a report on or before the date it is due is subject to sanctions provided by this chapter and Chapter 126.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 157, Sec. 9, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 533, Sec. 22, eff. Sept. 1, 2003.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 19 (S.B. 244), Sec. 13, eff. September 1, 2013.

Sec. 122.102. FINANCIAL REPORTING; AUDITS. (a) A credit union shall use the financial reporting forms and observe the accounting principles prescribed by the commission.

(b) The board shall:

(1) make a comprehensive annual audit of the credit union's books and affairs, in accordance with established principles and commission rules;

(2) submit a summary of the audit report to the credit union's members at the next annual meeting; and

(3) make a supplementary audit or examination as the

board considers necessary or the commissioner requires.

(c) The commission by rule may require a verification of members' accounts with the credit union's records.

(d) If the commissioner, by examination or other credible evidence, finds that the board is not complying with this section or a rule adopted under this section, the commissioner may appoint an independent person from outside the credit union and its members to perform an audit. The credit union shall pay the cost of the audit. Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 122.103. EQUITY CAPITAL. A credit union's equity capital consists of:

- (1) retained earnings;
- (2) appropriated retained earnings, including net worth and other reserves;
- (3) undivided earnings; and
- (4) other forms of capital in accordance with generally accepted accounting principles and approved by the commissioner.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 23, eff. Sept. 1, 2003.

Sec. 122.104. NET WORTH RESERVE ALLOCATIONS. (a) The commission by rule shall require a credit union to contribute to and maintain net worth reserves necessary to protect the interests of its members. The rule may:

- (1) prescribe the purposes for which the net worth reserves may be used; and
- (2) authorize the commissioner to approve other uses.

(b) The credit union's board may establish reserves in addition to the required net worth reserves.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 24, eff. Sept. 1, 2003.

Sec. 122.105. MEMBERSHIP SHARE REDUCTION. A credit union may order a reduction in the membership shares of each of its shareholders if:

(1) the credit union's losses resulting from a depreciation in value of its loans or investments or otherwise exceed its undivided earnings and its reserves, and the estimated value of its assets is less than the total amount due the shareholders;

(2) a majority vote of the credit union's members present at a meeting of members called for that purpose approve the reduction; and

(3) the reduction divides the loss proportionately among the shareholders.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 25, eff. Sept. 1, 2003.

Sec. 122.106. EXEMPTION FROM CERTAIN TAXES. (a) Except as provided by Subsection (b), a credit union is exempt from a franchise or other license tax.

(b) A credit union is not exempt from the franchise tax imposed by Chapter 171, Tax Code, unless the credit union is exempted by that chapter.

(c) The intangible property of a credit union organized under this chapter is not taxable.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 122.107. NOTICE OF AVAILABILITY OF CERTAIN DOCUMENTS.

(a) A credit union regulated under this subtitle and Chapter 15 shall give notice to the credit union's members of the availability on request of a member of documents related to the credit union's finances and management, including:

(1) a summary of the most recent annual audit;

(2) the most recent statement of financial condition, such as nonconfidential pages of the quarterly call report provided under Section 122.101;

(3) a copy of IRS Form 990 or its successor; and

(4) any other documents that members are entitled to possess, as determined by the commission.

(b) The notice required by Subsection (a) must be given:

(1) on the credit union's Internet website if the

credit union maintains a website; and

(2) in a newsletter twice a year if the credit union distributes a newsletter.

(c) The commission shall adopt reasonable rules to implement this section, including rules prescribing an alternative method for credit unions that do not maintain an Internet website or distribute a newsletter to provide their members with notice of the documents required by Subsection (a).

Added by Acts 2009, 81st Leg., R.S., Ch. 695 (H.B. [2735](#)), Sec. 17, eff. September 1, 2009.

SUBCHAPTER D. MERGER OR CONSOLIDATION

Sec. 122.151. AUTHORITY TO MERGE OR CONSOLIDATE. (a) A credit union may merge or consolidate with another credit union, under the other credit union's existing articles of incorporation or otherwise, if:

(1) the merger or consolidation is in accordance with commission rules and approved by the commissioner; and

(2) the merger or consolidation takes place under a plan that has been:

(A) agreed to by a majority of the board of each credit union joining in the merger or consolidation; and

(B) approved by a majority of the members of each credit union voting at a meeting of its members called for that purpose.

(b) The commissioner may waive the requirement that the members of each credit union approve the plan.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 122.152. APPLICATION TO MERGE OR CONSOLIDATE. (a) After agreement by the directors and approval by the members, if applicable, of each credit union or federal credit union, the chairman and secretary of each credit union or federal credit union shall execute a certificate of merger or consolidation that:

(1) includes a copy of the resolution or other action by which the board agreed to the merger or consolidation plan; and

(2) states:

(A) the time and place of the board meeting at which the board agreed to the merger or consolidation plan;

(B) the board's vote for and against adoption of the plan;

(C) the time and place of the meeting at which the members approved the plan, if applicable;

(D) the membership's vote for and against approval of the plan, if applicable; and

(E) the name of the surviving credit union.

(b) The merging credit union or a consolidating credit union shall submit the certificates and a copy of the merger or consolidation plan to the commissioner.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 26, eff. Sept. 1, 2003.

Sec. 122.153. DECISION BY COMMISSIONER; APPEAL. (a) Subject to Subsection (b), on approving the merger or consolidation, the commissioner shall return the certificates and plan to the merging or consolidating credit unions.

(b) The commissioner may conditionally approve a merger or consolidation. If approval is conditional, the commissioner:

(1) shall state the condition in the order approving the merger or consolidation; and

(2) may not deliver the approved certificate until the condition has been met.

(c) Notwithstanding any other law, the commissioner may authorize a credit union that is insolvent or is in danger of insolvency to merge or consolidate with another credit union or may authorize a credit union to purchase any of the assets of, or assume any of the liabilities of, another credit union that is insolvent or in danger of insolvency if the commissioner is satisfied that:

(1) an emergency requiring expeditious action exists with respect to the credit union that is insolvent or in danger of insolvency;

(2) another option is not reasonably available; and

(3) the public interest would best be served by

approval of the merger, consolidation, purchase, or assumption.

(d) If the commissioner disapproves the merger or consolidation or imposes a condition, the merging or consolidating credit unions may appeal the commissioner's decision to the commission in the manner provided by Section 122.007 for an appeal on an application to incorporate a credit union.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 122.1531. CONSIDERATIONS IN DETERMINATION. In determining whether to approve or disapprove the merger or consolidation, the commissioner shall consider the availability and adequacy of financial services in the local community and the effect that the merger or consolidation would have on the local community. The commission by rule shall establish other appropriate criteria that the commissioner must consider in making the determination.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 7.03(a), eff. Sept. 1, 1999.

Sec. 122.154. PROPERTY, OBLIGATIONS, AND LIABILITIES OF MERGED OR CONSOLIDATED CREDIT UNION. After a merger or consolidation is effected:

(1) the property of the merged or consolidated credit union vests in the surviving credit union without an instrument of transfer or endorsement; and

(2) the obligations and liabilities of the merged or consolidated credit union are assumed by the surviving credit union.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 122.155. CONSTRUCTION OF SUBCHAPTER. This subchapter shall be construed, when possible, to permit a credit union authorized to do business in this state under other law to merge or consolidate with a credit union authorized to do business under this subtitle.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 122.156. RULES TO ADDRESS CERTAIN PROCEDURES. The rules adopted under this subchapter must specify in detail the procedures that:

(1) a credit union must follow to obtain commissioner approval of a merger or consolidation; and

(2) the commissioner must follow in approving or disapproving the merger or consolidation.

Added by Acts 1999, 76th Leg., ch. 62, Sec. 7.03(a), eff. Sept. 1, 1999.

SUBCHAPTER E. CONVERSION

Sec. 122.201. CONVERSION OF STATE CREDIT UNION TO FEDERAL CREDIT UNION. (a) A credit union organized under the laws of this state may convert to a credit union under the laws of the United States:

(1) on an affirmative vote by a majority of the members voting at a meeting called for that purpose; and

(2) by complying with any rule adopted by the commission to facilitate the conversion.

(b) On the issuance of a charter by the National Credit Union Administration, the credit union:

(1) ceases to be a credit union incorporated under this subtitle; and

(2) is no longer subject to the supervision and regulation of the commissioner and department.

(c) The converted credit union shall file with the commissioner a copy of the charter issued to the credit union by the National Credit Union Administration. Failure to file the required copy of the charter does not affect the validity of the conversion.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Amended by:

Acts 2013, 83rd Leg., R.S., Ch. 19 (S.B. [244](#)), Sec. 14, eff. September 1, 2013.

Sec. 122.202. CONVERSION OF STATE CREDIT UNION TO

OUT-OF-STATE CREDIT UNION. A credit union organized under the laws of this state may convert to a credit union under the laws of another state:

(1) on an affirmative vote by a majority of the members voting at a meeting called for that purpose; and

(2) by complying with any applicable commission rule.
Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 122.203. CONVERSION OF FEDERAL OR OUT-OF-STATE CREDIT UNION TO STATE CREDIT UNION. A credit union organized under the laws of the United States or of another state may convert to a credit union organized under the laws of this state by complying with:

(1) the requirements of the jurisdiction under which the converting credit union is organized; and

(2) commission rules.
Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

SUBCHAPTER F. MISCONDUCT AND ENFORCEMENT

Sec. 122.251. DEFAMATION. (a) A person commits an offense if the person knowingly:

(1) makes, circulates, or transmits to another person a false statement that is derogatory to the financial condition of a credit union with the intent to injure that credit union; or

(2) counsels, aids, procures, or induces another person to make, circulate, or transmit a false statement that is derogatory to the financial condition of a credit union with the intent to injure that credit union.

(b) An offense under this section is a third degree felony.
Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 122.252. CONSIDERATION FOR LOAN, INVESTMENT, OR PURCHASE. (a) A person commits an offense if the person:

(1) is a director, honorary director, advisory director, committee member, officer, or employee of a credit union; and

(2) knowingly demands or receives, directly or indirectly, consideration for the credit union's making a specific loan or investment or purchasing an asset.

(b) An offense under this section is a Class A misdemeanor.
Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 122.253. LOAN TO NONMEMBER. (a) A person commits an offense if the person:

(1) is a director, honorary director, advisory director, committee member, officer, or employee of a credit union; and

(2) knowingly permits a loan to be made to a nonmember or participates in a loan to a nonmember.

(b) An offense under this section is a Class B misdemeanor.

(c) A person who commits an offense described by Subsection (a) is primarily liable to the credit union for the amount illegally loaned. The illegality of the loan is not a defense in an action by the credit union to recover on the loan.

(d) Extending credit to a nonmember as a comaker with a member or extending credit to a nonmember for the sale of property owned by the credit union or for the sale of assets acquired in liquidation or repossession is authorized and is not a loan to a nonmember. Acquiring a promissory note or other asset by a share and deposit guaranty corporation or credit union authorized under Section 15.410, on which a nonmember is liable, is not a loan to a nonmember.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 122.254. FALSE STATEMENTS OR DOCUMENTS; DESTRUCTION OF RECORDS. (a) A person commits an offense if the person, knowingly and with the intent to deceive:

(1) makes a false entry on a record, report, or statement of a credit union; or

(2) in connection with an examination or investigation of a credit union by the commissioner, a deputy commissioner, or the department's authorized examiner, exhibits a false paper, instrument, or security or gives under oath a false answer to a

question directly related to the examination or investigation asked the person by the commissioner, the deputy commissioner, or the department's authorized examiner.

(b) A person commits an offense if the person knowingly removes, destroys, or conceals a record of the credit union for the purpose of concealing a fact or information from the commissioner, a deputy commissioner, or the department's authorized examiner.

(c) An offense under this section is a third degree felony. Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 122.255. DETERMINATION OF MISCONDUCT. The commissioner may determine that an officer, director, honorary director, advisory director, or employee of a credit union, or the credit union itself, acting by and through an officer, director, honorary director, advisory director, or employee, has:

(1) violated this subtitle, a rule adopted under this subtitle, or another law applicable to a credit union;

(2) violated or refused to comply with a final order of the commissioner or commission;

(3) wilfully neglected to perform an official or legal duty or wilfully committed a breach of trust or fiduciary duty;

(4) committed a fraudulent or questionable practice in the conduct of the credit union's business that endangers the credit union's reputation or threatens its solvency;

(5) refused to submit to examination under oath or to permit examination of the credit union's records and affairs by the commissioner or the commissioner's representative;

(6) failed or refused to authorize and direct another person to permit the commissioner or the commissioner's representative to examine the credit union's records in the other person's custody after the commissioner has requested the authorization of and direction to the other person;

(7) conducted the credit union's business in an unsafe, unauthorized, or unlawful manner;

(8) concealed, destroyed, removed, or falsified a record related to the credit union's business and affairs;

(9) transacted business while the credit union was in

an unsafe or unsound condition;

(10) violated a condition of the credit union's articles of incorporation or of a written agreement with the commissioner or the commission; or

(11) committed a criminal act that is a substantial detriment to the reputation and conduct of the credit union's business.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 27, eff. Sept. 1, 2003.

Sec. 122.256. DETERMINATION LETTER; BOARD MEETING. (a) If the commissioner determines from examination or other credible evidence that a credit union is in a condition that may warrant the issuance of an order under this chapter or Chapter 126, the commissioner may notify the credit union in writing of the commissioner's determination, the requirements the credit union must satisfy to abate the determination, and the time by which the requirements must be satisfied to avert further administrative action. The determination letter must be delivered in person or sent by registered or certified mail, return receipt requested.

(b) If considered necessary, the commissioner may call a meeting of the credit union's board. The directors shall attend the meeting. The commissioner shall present to the board the findings stated in the determination letter and shall demand the discontinuance of any violation or unsafe or unsound practice found.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 28, eff. Sept. 1, 2003.

Sec. 122.257. CEASE AND DESIST ORDER FOR CREDIT UNIONS. (a) If the commissioner makes a finding listed in Section 122.255 and determines that an order to cease and desist is necessary and in the best interest of the credit union involved and its depositors, creditors, and members, the commissioner may serve on the credit union, its board, and each offending person an order to cease and desist from a violation or practice specified in the order and to take affirmative action that the commissioner considers necessary

to correct a condition resulting from a violation or unsafe or unsound practice found.

(b) The order must:

(1) be in writing;

(2) be served:

(A) at the meeting called under Section [122.256](#) or not later than the 30th day after the date of that meeting; and

(B) by certified or registered mail, addressed to the credit union at the last address of its principal office as shown by department records, or by delivery to an officer or director of the credit union; and

(3) unless the order is effective immediately on service as provided by Subsection (d), state the effective date of the order, which may not be before the 10th day after the date the order is served.

(c) Service by mail is complete on deposit of the paper, enclosed in a postpaid, properly addressed wrapper, in a post office or official depository under the care and custody of the United States Postal Service.

(d) A cease and desist order is effective immediately on service if the commissioner finds that:

(1) the solvency of the credit union is endangered;

(2) there is a continuing violation of this subtitle or a rule adopted under this subtitle; or

(3) there is a threat of immediate and irreparable harm to the public or the credit union or its depositors, creditors, or members.

(e) The order is final unless, not later than the 10th day after the date the order is served, the credit union files with the commissioner written notice of appeal that includes a certified copy of the board resolution.

(f) A copy of the order shall be entered in the minutes of the board meeting. The directors shall certify to the commissioner in writing that each director has read the order.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 29, eff. Sept. 1, 2003.

Amended by:

Acts 2009, 81st Leg., R.S., Ch. 695 (H.B. 2735), Sec. 18, eff. September 1, 2009.

Sec. 122.2575. CEASE AND DESIST ORDER FOR OTHER PERSONS.

(a) If it appears to the commissioner that a person who is not authorized to engage in business under this subtitle or the Federal Credit Union Act (12 U.S.C. Section 1751 et seq.) is violating this subtitle, a rule adopted under this subtitle, or another state statute or rule relating to the regulation of credit unions, the commissioner may issue without notice and hearing an order to cease and desist from continuing a particular action to enforce compliance with the applicable state statute or rule relating to the regulation of credit unions. The order must contain a reasonably detailed statement of the fact on which the order is made.

(b) If a person against whom an order under this section is made requests a hearing, the commissioner shall set and give notice of a hearing before the commissioner or a hearings officer. The hearing shall be governed by Chapter 2001, Government Code.

(c) An order under this section becomes final unless the person to whom the order is issued requests a hearing not later than the 30th day after the date the order is issued. If a hearing has not been requested not later than the 30th day after the date the order is made, the order is considered final and nonappealable.

Added by Acts 2009, 81st Leg., R.S., Ch. 695 (H.B. 2735), Sec. 19, eff. September 1, 2009.

Sec. 122.258. REMOVAL ORDER. (a) The commissioner by order may remove or prohibit a person who is a current or former officer, director, manager, or employee of a credit union from office, employment, or further participation in the affairs of a credit union if the commissioner by examination or other credible evidence:

(1) finds that:

(A) the person has continued a violation or practice previously charged and found by the commissioner after issuance of a determination letter under Section 122.256 or a cease

and desist order under Section 122.257; and

(B) removal or prohibition is necessary and in the best interest of the credit union and its depositors, creditors, and members; or

(2) makes a finding listed in Section 122.255 and determines that removal or prohibition of the person is immediately necessary because the person has committed or is about to commit:

(A) a fraudulent or criminal act involving the conduct of the business of the credit union;

(B) an act that may cause the credit union to become insolvent or to be placed in imminent danger of insolvency; or

(C) an act that otherwise threatens immediate and irreparable harm to the public or the credit union or its members, depositors, or creditors.

(b) The removal order must:

(1) state with reasonable certainty the grounds for removal; and

(2) be promptly served on the person removed and on the credit union in the manner provided by Section 122.257 for service of a cease and desist order.

(c) On issuance of the order, the person has no right, duty, or authority of office or employment in the credit union. After the order becomes final, the person removed or prohibited may not hold office in, be employed by, or participate in the affairs of any credit union without the prior written approval of the commissioner. The order is final as of the date of issuance unless the person removed or prohibited or the credit union, as evidenced by a certified copy of the board resolution, files written notice of appeal with the commissioner not later than the 10th day after the day the removal order is served.

(d) A copy of the removal order shall be entered in the board minutes. An officer shall acknowledge receipt of the order and certify to the commissioner that each person named in the removal order has been removed from office or employment.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 30, eff. Sept. 1, 2003.

Sec. 122.259. HEARING ON APPEAL OF PROPOSED ORDER. (a) If the credit union or a person removed from office or employment files a notice of appeal of a cease and desist order or a removal order, the commissioner shall set a time and place for the commission to hear the appeal in accordance with commission rules.

(b) The filing of an appeal does not suspend a removal order or cease and desist order.

(c) At the conclusion of the hearing, the commission may vacate, affirm, or modify the commissioner's order and may order that appropriate action be taken.

(d) A cease and desist order or a removal order is final on completion of an appeal or otherwise as provided by this subchapter.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997.

Sec. 122.260. ADMINISTRATIVE PENALTY; INJUNCTION. (a) If a credit union or other person designated in a final order under this subchapter does not comply with the order, the commissioner, after giving notice, may assess an administrative penalty against the credit union, the designated person, or both, in an amount of not less than \$100 or more than \$10,000 each for each day of the violation of the order.

(b) The credit union may not reimburse or indemnify a person for any part of the administrative penalty.

(c) The commissioner may bring suit for injunction or to collect the administrative penalty in a district court of Travis County. In the suit, a certificate by the commissioner showing a failure to pay an administrative penalty is prima facie evidence of:

(1) the imposition of the penalty or the delinquency of the stated penalty amount; and

(2) compliance by the department with the law relating to the computation and imposition of the penalty.

(d) The attorney general is entitled to recover reasonable attorney's fees from the credit union or the designated person, or both, if the attorney general prevails in a judicial action

necessary for collection of the administrative penalty.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 2003, 78th Leg., ch. 533, Sec. 31, eff. Sept. 1, 2003.

Sec. 122.261. CONFIDENTIALITY. (a) A determination letter, a cease and desist order, a removal order, each copy of a notice or correspondence, and all other documents or records relating to an order or determination letter issued under this subchapter are confidential and are not subject to public disclosure except in an action authorized by this subtitle or other authority.

(b) The commissioner may disclose the information described by Subsection (a) to a share and deposit guaranty corporation or credit union or to a department, agency, or instrumentality of this state, another state, or the United States if the commissioner determines the disclosure is necessary or proper for the enforcement of the laws of this state or the United States.

(c) The commissioner may release information regarding the existence of a final order to the public if the commissioner concludes that the release would enhance effective enforcement of the order.

Acts 1997, 75th Leg., ch. 1008, Sec. 1, eff. Sept. 1, 1997. Amended by Acts 1999, 76th Leg., ch. 157, Sec. 10, eff. Sept. 1, 1999; Acts 2003, 78th Leg., ch. 533, Sec. 32, eff. Sept. 1, 2003.